

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition Filed by the Campaign Legal Center,)	MB Docket No. 14-127
Common Cause and the Sunlight Foundation)	
Seeking Expansion of Online Public File)	
Obligations to Cable and Satellite TV Operators)	

To: The Media Bureau
 Federal Communications Commission

COMMENTS OF EDUCATIONAL MEDIA FOUNDATION

Educational Media Foundation (“EMF”), by its attorneys, hereby submits its comments in the above-referenced proceeding. The Media Bureau (the “Bureau”) has asked for comment on “whether the Commission should initiate a rulemaking proceeding to require broadcast stations to use the online public file, and on appropriate time frame for such a requirement.”¹ EMF is perhaps the largest noncommercial broadcaster in the country, holding licenses for more than 300 full-power noncommercial educational broadcast radio stations (NCE) operating in communities large and small across the country. While it has been EMF's experience that the public file of its stations are rarely if ever accessed, and thus there does not appear to be a great public demand for the public file of radio stations to be placed online, if rules are in fact adopted for broadcast radio licensees regarding online public file obligations, these rules need to be phased in over time so that stations with the fewest resources to comply with such rules be given the longest period in which to establish their compliance. In light of the recognized financial

¹ Public Notice page 2 DA-14-1149 (Rel. Aug. 7, 2014)

limitations of noncommercial broadcasters, NCEs should be the last stations required to maintain online files. In addition, in crafting rules for NCE stations, the FCC needs to carefully assess the unique obligations for public file compliance for noncommercial stations, and if it decides to adopt obligations for an online public file for radio stations generally, it adopt rules that protect privacy rights of donors and others involved in the noncommercial broadcasting community.

Any new obligations required of NCE licensees will place a financial burden on the NCE stations that is unique. While there are not yet any specific rules proposed, it is important that the Bureau be reminded that changes to procedures at NCE stations often have greater impact due to smaller budgets and limited personnel.

When the Commission promulgated rules for online public file obligations for television broadcasters, it did so utilizing a phased-in approach.² Initially only those stations that were affiliated with the top four national networks and that were licensed to serve communities in the Top 50 Designated Market Areas (“DMAs”) were required to file their political files online.³ Only after the initial issues of launching the online filing system at the Commission for the larger stations had been resolved were the smaller television broadcasters required to upload their political files.⁴

EMF suggests in the event that new online reporting obligations are placed on broadcast radio licensees that the Commission use a similar phased-in approach, and the last group of licensees required to comply should be NCEs. It appears that the impetus behind the *Public*

² *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations*, 27 FCC Rcd 4535, (2012) (“Online File Order”).

³ *Id.* at 4551.

⁴ *Id.*

Notice is the public availability of the political files of cable and satellite television stations.⁵

EMF understands that public disclosure and transparency may be particularly important as applied to political file reporting. However, adopting a phased-in approach for NCE licensees would not inhibit public access to political files as NCEs typically have do not have substantial political files to maintain, as there are no reasonable access obligations for such broadcasters and noncommercial broadcasters typically do not sell any broadcast time to political candidates. Thus, political disclosure is not a motivating force in mandating online public files for noncommercial stations.

In addition, it is critical to solve any issues with the online filing process before requiring NCEs to utilize resources in uploading online files. NCE stations perpetually operate with limited resources to carry out their sometimes broad nonprofit mandates. The adoption of systems of compliance, and the general distribution of experience and knowledge about compliance issues, will happen over time if larger stations are first subject to any public file obligations that may be imposed. NCEs will be able to benefit from this experience in reducing costs when their time comes to implement any rules that may be adopted.

The FCC has many times recognized that noncommercial broadcasters, whose principal funding comes directly from their listeners, are often limited in their resources. For this reason, in many cases, the FCC has exempted NCE stations from certain regulatory burdens that could impose additional costs on these stations, or it has minimized their regulatory burdens knowing that some costs may prove difficult for the noncommercial broadcaster to meet. They operate their nonprofit businesses with the need to weigh choices between competing demands for their resources just like any commercial broadcaster – yet they do so in a world where these choices

⁵ The Campaign Legal Center, Common Cause and the Sunlight Foundation Petition for Rulemaking, filed July 31, 2014.

are perhaps even more difficult, as their flexibility to find a means to pay for the costs imposed by any choice is more limited by their status as a noncommercial, nonprofit licensee.

In addition, the FCC must recognize the unique information provided in the public file of NCE stations and, just as it did when the obligations were adopted for television broadcasters, it should craft exemptions to the online public file requirements for noncommercial stations where such obligations could impede on the privacy of supporters of noncommercial broadcasting. The rules require that NCE stations place in their public file lists of donors who provide support to particular programs. Just as those who submit letters to the public inspection file of television stations may not expect that their names be made available on the Internet, donors to specific programs on NCE stations may not expect that the fact of their donations will be available to anyone anywhere in the world with an Internet connection. One can almost imagine how such donors could become the target of unscrupulous individuals trolling the Internet for the names of unsuspecting donors. This information, while available in a station's physical file, is much more likely to be the subject of abuse if it is broadly disseminated on the Internet. Thus, the FCC should think carefully as to whether this information should be required to be posted online, as the Commission does not want to give NCE donors any reason to be hesitant about supporting noncommercial radio.

The burdens on noncommercial stations are great, and changing procedures can be a challenge. Thus, as set forth above, EMF requests that if the Commission adopts new rules expanding online public file obligations to radio licensees it adopt a phased-in approach to the

requirements, and it allow that NCE stations are the last stations required to comply with any new regulations.

Respectfully submitted,

EDUCATIONAL MEDIA FOUNDATION

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